

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Insight Technology Inc.

v.

Civil No. 04-cv-74-JD

SureFire, LLC

PROCEDURAL ORDER

Insight Technology Inc. brings a patent infringement action against SureFire, LLC, alleging infringement of United States Patent Number 6,574,901 ("the '901 patent"). The '901 patent is titled "Auxiliary Device for a Weapon and Attachment Thereof" and relates generally "to an auxiliary (e.g. illumination) device for a weapon and, more particularly, to attaching an auxiliary device to a weapon." Trial is scheduled for the period beginning on October 20, 2009. In the course of trial preparation, the following matters have come to the court's attention.

A. Sample Products

The parties shall submit to the court a sample or samples of Insight's products that best demonstrate the technology at issue in this case, together with the weapons, or models of weapons, to which those products attach. The parties shall also submit a

sample of each of SureFire's accused products, together with the weapons, or models of weapons, to which those products attach.

B. Claim Terms

In the court's September 21, 2009 procedural order regarding preparation for trial (doc. 263), counsel were directed to submit a list of claim terms to be included in juror notebooks. In doing so, counsel shall address and resolve the following discrepancies among their proposed jury instructions (docs. 237 and 255) and the court's claim construction order (doc. 79):

1. The construction of the claim term "biased in a direction normal to the top surface of the housing." Insight's proposed jury instruction adds the following sentence to the construction given in both the claim construction order and SureFire's proposed jury instructions: "As long as the bias, or force, is in a direction that is perpendicular to the top surface of the housing, the actual direction of movement is irrelevant."

2. The construction of the claim term "extending across." The claim construction order construed the term to mean, "the orientation but not necessarily the size of the

mechanism," upon which SureFire expanded: "[T]he mechanism traverses or is perpendicular to the longitudinal axis of the housing; the term refers to the orientation but not necessarily the size of the mechanism, and does not require the mechanism to extend completely across the housing." Insight did not include this term in its proposed jury instructions.

Conclusion

The parties shall submit product samples **on or before September 30, 2009.** Given the nature of the submissions, counsel shall consult the deputy court clerk regarding the appropriate procedure for delivering the firearms to the court.

Counsel shall address the discrepancies in claim construction before filing the list of claim terms.

SO ORDERED.


Joseph A. DiClerico, Jr.
United States District Judge

September 23, 2009

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